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Attorneys for Plaintiff, JOSE RODRIGUEZ

**UNITED STATES DISTRICT COURT OF CALIFORNIA**

**NORTHERN DISTRICT – SAN FRANCISCO DIVISION**

JOSE RODRIGUEZ, an individual,

Plaintiff,

vs.

UNITED STATES OF AMERICA, a  
governmental entity; JOHN DOE, an  
individual.

Defendants.

CASE NO.:

**COMPLAINT:**

**ACTION UNDER FEDERAL**

**TORTS CLAIM ACT FOR**

**PERSONAL INJURIES; DEMAND**

**FOR JURY TRIAL**

COMPLAINT: ACTION UNDER FEDERAL TORTS CLAIM ACT FOR PERSONAL INJURIES; DEMAND  
FOR JURY TRIAL

For a Complaint against Defendants, UNITED STATES OF AMERICA and JOHN DOE (collectively, “Defendants”), Plaintiff JOSE RODRIGUEZ, alleges as follows:

### **JURISDICTION AND VENUE**

1. This action arises under the Federal Torts Claims Act, 28 U.S.C. §§ 1346(b), 2671-80, as hereinafter more fully appears.

2. Venue is proper in the Northern District of California because the negligent acts giving rise to the Federal Tort Claim alleged herein occurred within the Northern District of California, and the Plaintiff resides, within the Northern District. Venue is proper specifically in the San Francisco Division of this District because the negligent acts giving rise to the Federal Tort Claim alleged herein occurred within the San Francisco Division of the Northern District of California.

### **GENERAL ALLEGATIONS**

#### **A. THE PARTIES**

3. This is an action brought under the Federal Torts Claims Act for personal injuries arising out of a general negligence incident which occurred on August 23, 2017, at United States Post Office located at 1300 Evans Avenue San Francisco, California 94188, County of San Francisco, State of California

(hereinafter “the general negligence incident”). This location is within the Northern District of California, San Francisco Division 2 through 20, whether individual, corporate, municipal, associate or otherwise, are unknown to Plaintiff at this time, and Plaintiff, therefore, sues said Defendants by such fictitious names. Plaintiff will amend this Complaint to show their true names or capacities when the same have been ascertained. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants is, in some manner, responsible for the events and happenings herein set forth and caused injury and damages to the Plaintiff as herein alleged.

5. Plaintiff alleges on information and belief that in performing the acts and omissions alleged herein, each of the Defendants was the agent and employee of each of the other Defendants and was at all times acting within the course and scope of such agency and employment.

## **B. FACTUAL BACKGROUND**

6. On or about August 23, 2017, at the subject location, Plaintiff Jose Rodriguez sustained severe injuries when Defendant UNITED STATES POSTAL SERVICE's employee Defendant JOHN DOE, operating a forklift, failed to see

1 Plaintiff JOSE RODRIGUEZ and struck Plaintiff, resulting in substantial injuries  
2 and damages to Plaintiff.  
3

4 7. At the time of the incident, JOHN DOE was an employee of the  
5 United States Postal Service, an agency of Defendant UNITED STATES OF  
6 AMERICA, and was acting within the course and scope of his employment.  
7

8 8. If Defendant UNITED STATES OF AMERICA was a private entity  
9 or person, each defendant would be liable to Plaintiff in accordance with the laws  
10 of the State of California.  
11

12 9. Pursuant to 28 U.S.C. §2675(a), Plaintiff presented a separate and  
13 individual administrative claim to the United States of America. This claim was  
14 presented on or about May 14, 2019. To date, United States of America denied the  
15 claim on November 27, 2019.  
16

### 17 **FIRST CLAIM FOR RELIEF**

#### 18 **(For Personal Injuries, Both Physical and Emotional Damages)**

19 10. Plaintiff incorporates by reference as though fully set forth herein the  
20 contents of paragraphs 1 through 9, inclusive.  
21

22 11. At all times herein mentioned, Defendant, John Doe, was acting in the  
23 course and scope of his/or her employment, agency, joint enterprise and/or  
24  
25  
26  
27

1 Independent Contractor relationship with Defendant United States of America, so  
2 that Defendants are vicariously liable for the negligence of one another.  
3

4 12. At all times herein mentioned Defendant United States of America,  
5 and John Doe, inclusive, failed to have in place adequate and reasonable policies  
6 and procedures, and/or failed to adequately train, supervise, and/or monitor its  
7 employees and/or agents.  
8

9 13. That as a direct and proximate result of the acts and omissions of the  
10 Defendants, and each of them, Plaintiff has received severe injuries to his body and  
11 shock and injuries to his nervous system, all of which caused and  
12 continues to cause him severe pain and discomfort and Plaintiff is informed and  
13 believes and based upon such information and belief allege that he will in the  
14 future suffer severe mental, physical and nervous pain and suffering, all to his  
15 general damage in a sum according to proof at the time of trial.  
16

17 14. As a direct and proximate result of the acts and omissions of the  
18 Defendants, and each of them, and the injuries resulting therefrom, Plaintiff  
19 necessarily employed physicians and surgeons for medical examination, treatment,  
20 and care of these injuries, and incurred medical and incidental expenses. Plaintiff  
21 will also have to incur additional like expenses in the future all in amounts  
22  
23  
24  
25  
26  
27

1 presently unknown to him. Plaintiff therefore asks leave of the court either to  
2  
3 amend this complaint to show the amount of his medical expenses, when  
4 ascertained, or to prove the amount at trial.

5  
6 **PRAYER FOR RELIEF**

7 WHEREFORE, PLAINTIFF PRAYS FOR JUDGMENT AGAINST  
8  
9 DEFENDANTS, AND EACH OF THEM, AS FOLLOWS:

- 10 A. General damages of \$15,000,000 according to proof at trial;
- 11 B. Compensatory damages in a sum according to proof at trial;
- 12  
13 C. Future medical incurred and to be incurred for services of hospitals,  
14 physicians, surgeons, nurses and other professional services, ambulance services,  
15 x-rays, and other medical supplies and services of \$1,500,000 according to proof at  
16 trial;
- 17  
18 D. Loss of income incurred and to be incurred of \$3,500,000 according  
19 to proof at trial;
- 20  
21 E. For interest provided by law; and
- 22  
23 F. Costs of suit and for such other and further relief as the Court deems  
24 proper.
- 25  
26  
27

Wherefore, and in light of the above, Plaintiff demands judgment against Defendants in excess of \$20,000,000.

DATED: March 3, 2020      BANAFSHEH, DANESH & JAVID  
A Professional Law Corporation

By: /S/  
MARK E. MILLARD, ESQ.  
Attorneys for PLAINTIFF

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial.

DATED: March 3, 2020      BANAFSHEH, DANESH & JAVID  
A Professional Law Corporation

By: /S/  
MARK E. MILLARD, ESQ.  
BITA M. AZIMI, ESQ.  
Attorneys for PLAINTIFF  
JOSE RODRIGUEZ

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